

1 Randal R. Leonard, Esq.
2 Nevada Bar No. 006716
3 509 South Seventh Street
4 Las Vegas, NV 89101
5 (702) 598-3667
6 *Attorney for Debtor(s)*

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UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

In re:

JOHN I. MENDOZA,

Debtor.

Case No.: BK-S-09-17391-MKN

Chapter 13

MOTION TO AVOID LIEN

Hearing Date: December 3, 2009

Hearing Time: 2:30 p.m.

COMES NOW Debtor(s) John I. Mendoza, by and through counsel, Randal R. Leonard, Esq., and hereby moves that this Court enter an Order avoiding the lien in second position against that property commonly known as 8952 Crystal Lagoon Court, Las Vegas, NV 89147 in favor of EMC Mortgage (EMC). This Motion is based upon the pleadings and papers in file herein and the Memorandum of Points and Authorities attached hereto.

Dated this 27th day of October 2009.

Randal R. Leonard, Esq.

Randal R. Leonard, Esq.
Nevada Bar No. 006716
509 South Seventh Street
Las Vegas, NV 89101
(702) 598-3667
Attorney for Debtor(s)

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2 **MEMORANDUM OF POINTS AND AUTHORITIES**

3 **I.**

4 **STATEMENT OF THE FACTS**

5 Debtor filed the instant matter on or about May 8, 2009. Kathleen Leavitt was duly
6 appointed as the Trustee in this matter.

7 On or about September 29, 2005 Debtor purchased that certain real property commonly
8 known as 8952 Crystal Lagoon Court, Las Vegas, NV 89147 for a total purchase price of
9 \$445,000.00. A true and correct copy of the deed transferring said property to Debtor is attached
10 as Exhibit A. In order to purchase the above property, Debtor signed a Note secured by a Deed
11 of Trust in first position in favor of America's Servicing Company, it's successors or assigns.
12 The total amount owing the 1st is \$355,999.92. Please see America's Servicing Company's Proof
13 of Claims attached hereto as Exhibit B. Debtor also signed a Note secured by a Deed of Trust in
14 second position in favor of EMC as well. The total amount owing the 2nd is \$87,421.10. Please
15 see EMC's Proof of Claim attached hereto as Exhibit C.
16

17 Debtor recently employed Vegas Valley Appraisers to appraise the subject property. The
18 appraisal is attached as Exhibit D and was determined to be \$280,000.00. Therefore, because the
19 Note in first position is owed approximately \$355,999.92 as according to the Proof of Claim
20 attached as Exhibit B, the Note in second position held by EMC is wholly unsecured.

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II.

EMC DOES NOT HAVE A SECURED CLAIM REGARDING THEIR LOAN IN SECOND POSITION

11 U.S.C. § 506(a) bifurcates a creditor's allowed secured claim into two parts: (1) secured to the extent of the value of the property to which the creditor's interest attached; and (2) unsecured to the extent the claim exceeds the value of the underlying property. Therefore, not all secured interests will be "secured claims" in bankruptcy cases. In re Zimmer, 313 F.3d 1220 (9th Cir. 2002). Additionally, the Zimmer case holds that if the value of the first lien secured by real property is more than the value of the property itself, then the second lien is wholly unsecured and may be stripped off. Id.

In this matter, America's Servicing Company holds the lien in first position against the Debtor's property commonly known as 8952 Crystal Lagoon Court, Las Vegas, NV 89147. The principal balance owing to America's Servicing Company is \$355,999.92. EMC also holds a lien in second position against the above property and the principal balance owing on the second lien is \$87,421.10. Since the appraisal of the subject property is \$280,000.00 and is less than the amount owed to the first lien in this case held in favor of America's Servicing Company, then the second lien in favor of EMC is wholly unsecured and can be "stripped off."

III.

EMC'S LIEN IN SECOND POSITION IS VOID

11 U.S.C. § 506(d) states in relevant part as follows:

(d) To the extent that a lien secures a claim against the debtor that is not an allowed secured claim, such lien is void, unless-

(1) such claim was disallowed only under section 502(b)(5) or 502(e) of this title; or

(2) such claim is not an allowed secured claim due only to the failure of any entity to file a proof of such claim under section 501 of this title.

1 As a result of the fact that EMC's lien in second position is not an allowed secured claim
2 under section 506(a), section 506(d) would therefore render the lien void.

3 **IV.**

4 **EMC'S CONTRACT RIGHTS MAY BE MODIFIED**
5 **THROUGH DEBTOR'S CHAPTER 13 PLAN**

6 11 U.S.C. § 1322(b)(2) allows a debtor to modify the rights of secured claim holders
7 except those secured claim holders who have claims secured by the debtor's principal residence.
8 Nevertheless, the Zimmer case cited above allows a debtor to modify the rights of those claims
9 that are wholly unsecured even where the lien question is against the debtor's principal
10 residence.

11 In conclusion, Debtor respectfully requests that the Court allow the Debtor to treat
12 EMC's lien in second position as a wholly unsecured claim. Further, Debtor respectfully
13 requests that the Court enter an Order that EMC's lien in second position have no further force or
14 effect against that certain real property commonly known as 8952 Crystal Lagoon Court, Las
15 Vegas, NV 89147.

16 Dated this 27th day of October 2009.

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20 **Randal R. Leonard, Esq.**

21 Randal R. Leonard, Esq.
22 Nevada Bar No. 006716
23 509 South Seventh Street
24 Las Vegas, NV 89101
25 (702) 598-3667
Attorney for Debtor(s)

EXHIBIT A

20050929-0004939

APN: 163-17-811-016
ESCROW NO: 02005037-200-LV
WHEN RECORDED MAIL TO and
MAIL TAX STATEMENT TO:

John Mendoza
8952 Crystal Lagoon Court
Las Vegas, NV 89147

Fee: \$16.00 RPTT: \$2,269.50
M/C Fee: \$0.00

09/29/2005 13:57:19
T20050179121

Requestor:
LAWYERS TITLE OF NEVADA

Frances Deane DOM
Clark County Recorder Pgs: 3

GRANT, BARGAIN, SALE DEED

R.P.T.T. \$2,269.50

THIS INDENTURE WITNESSETH: That

Ranier M. Guimera and Lucila N. Almirante, husband and wife as joint tenants
FOR A VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, do(es) hereby
Grant, Bargain, Sell and Convey to **John Mendoza a Single Man**

all that real property situated in the County of Clark, State of Nevada, described as follows:

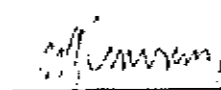
See Exhibit A attached hereto and made a part hereof.

SUBJECT TO: 1. Taxes for the fiscal year 2005 - 2006
2. Rights of Way, reservations, restrictions, easements, and conditions of record.

Together with all and singular the tenements, hereditaments and appurtenances thereunto
belonging or in anywise appertaining.

Witness my hand this 23 day of September, 2005.



Ranier M. Guimera


Lucila N. Almirante

CALIFORNIA
STATE OF NEVADA }
COUNTY OF LOS ANGELES } ss:

On August 3, 2005, personally appeared before me, a Notary Public in and for said
County and State, **RAINIER M. GUIMERA AND**
who acknowledged to me that **(HE)** executed the same. **LUCILA N. ALMIRANTE**
THEY

WITNESS my hand and official seal.


NOTARY PUBLIC in and for said County and State.

Brian S. Anderson

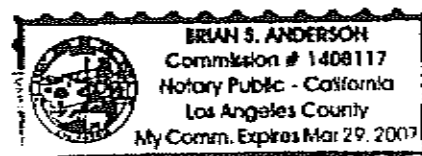


EXHIBIT "A"

All that certain real property situated in the County of Clark, State of Nevada,
described as follows:

Lot Sixteen (16) in Block One (1) of CRYSTAL POINTE as shown by map thereof
on file in Book 68 of Plats, Page 26, in the Office of the County Recorder of Clark
County, Nevada.

Assessor's Parcel Number: **163-17-811-016**

STATE OF NEVADA DECLARATION OF VALUE

1. Assessor Parcel Number(s)

- a) 163-17-811-016 ✓
b) _____
c) _____
d) _____

2. Type of Property:

- a) ☐ Vacant Land b) ☒ Single Fam Res
c) ☐ Condo/Twnhse d) ☐ 2-4 Plex
e) ☐ Apt. Bldg f) ☐ Comm'l/Ind'l
g) ☐ Agricultural h) ☐ Mobile Home
Other _____

FOR RECORDER'S OPTIONAL USE ONLY

Book: _____ Page: _____
Date of Recording: _____
Notes: _____

3. Total Value/Sales Price of Property:

Deed in Lieu of Foreclosure Only (value of property) (\$ _____)
Transfer Tax Value per NRS 375.010, Section 2: \$445,000.00 ✓
Real Property Transfer Tax Due: \$2,269.50 ✓

4. If Exemption Claimed

- a. Transfer Tax Exemption, per NRS 375.090, Section _____
b. Explain Reason for Exemption: _____

5. Partial Interest: Percentage being transferred: _____%

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature: [Signature] Capacity: Seller

Signature: [Signature] Capacity: Buyer

SELLER (GRANTOR) INFORMATION (REQUIRED)

Print Name: Ranier M. Guimera
Address: 2450 Colorado ave., Suite 100 East
Tower
City/State/Zip: Santa Monica, CA 90404

BUYER (GRANTEE) INFORMATION (REQUIRED)

Print Name: John Mendoza
Address: 8952 Crystal Canyon Court
City/State/Zip: Las Vegas, NV 89147

COMPANY/PERSON REQUESTING RECORDING (required if not seller or buyer)

LAWYERS TITLE OF NEVADA, INC.
2879 St. Rose Parkway
Henderson, NV 89052

Escrow #: 2005037-200-LV
Escrow Officer: Lorraine Velko

4979

AN ADDITIONAL RECORDING FEE OF \$1.00 WILL APPLY FOR EACH DECLARATION OF VALUE FORM PRESENTED TO CLARK COUNTY, EFFECTIVE JUNE 1, 2004.

EXHIBIT B

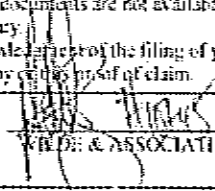
UNITED STATES BANKRUPTCY COURT DISTRICT OF NEVADA		PROOF OF CLAIM 13
Name of Debtor John L. Mendora	Case Number 09-17391-mkn	(This space for court use)
NOTE: This form should NOT be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. Section 503.		
Name of Creditor (The person or other entity to whom the debtor owes money or property) Bank of America, National Association as successor by merger to LaSalle Bank National Association, as Trustee for Certificateholders of Bear Stearns Asset Backed Securities I LLC, Mortgage Backed-Certificates, Series 2006-3	<input type="checkbox"/> Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars. <input type="checkbox"/> Check box if you have never received any notices from the bankruptcy court in this case. <input type="checkbox"/> Check box if the address differs from the address on the envelope sent to you by the court.	
Name & address where notices and payments should be sent: EMC Mortgage Corporation 2780 Lake Vista Drive, Lewisville, TX 75067		
Account or other number by which creditor identifies debtor: 0014139396 / 09-74193	Check here if this claim <input type="checkbox"/> replaces <input type="checkbox"/> amends a previously filed claim, dated	
1. BASIS FOR CLAIM <input type="checkbox"/> Goods sold <input type="checkbox"/> Services performed <input checked="" type="checkbox"/> Money loaned <input type="checkbox"/> Personal injury/wrongful death <input type="checkbox"/> Taxes <input type="checkbox"/> Other	<input type="checkbox"/> Retiree benefits as defined in 11 U.S.C. §1114(a) <input type="checkbox"/> Wages, salaries, and compensation (FILL OUT BELOW) Your Social Security # _____ Unpaid compensation for services performed from _____ (date) _____ To _____ (date) _____	
2. Date debt was incurred: September 21, 2005	3. If court judgment, date obtained:	
4. Total amount of claim at time case filed: \$87,421.10 If all or part of your claim is secured or entitled to priority, also complete Item 5 or 6 below. <input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach an itemized statement of all interest or additional charges.		
5. Secured Claim. <input checked="" type="checkbox"/> Check this box if your claim is secured by collateral (including a right of setoff) Brief description of collateral: <input checked="" type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Amount of arrearages and other charges at time case filed included in secured claim, if any: \$7,508.47* * Arrearages, as set forth in Schedule "A" attached. Plus accruing interest, late charges.	6. Unsecured Priority Claim. <input type="checkbox"/> Check this box if you have an unsecured priority claim. Amount entitled to priority \$ _____ Specify the priority of the claim: <input type="checkbox"/> Wages, salaries, or commissions up to \$4,650* earned within 90 days before filing of the bankruptcy petition, or cessation of the debtor's business, whichever is earlier- 11 U.S.C. §507(a)(3) <input type="checkbox"/> Contributions to an employee benefit plan- 11 U.S.C. § 507(a)(4) <input type="checkbox"/> Up to \$2,100* of deposits toward purchase, lease or rental of property or services for personal, family or household use- 11 U.S.C. § 507(a)(6) <input type="checkbox"/> Alimony, maintenance, or support owed to a spouse, former spouse, or child- 11 U.S.C. § 507(a)(7) <input type="checkbox"/> Taxes or penalties owed to governmental units- 11 U.S.C. § 507(a)(8) <input type="checkbox"/> OTHER-Specify applicable paragraph of 11 U.S.C. § 507(a)(____). *Amounts are subject to adjustment on 4/1/95 and every three years thereafter with respect to cases commenced on or after the date of adjustment.	
7. Credits: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim. 8. Supporting documents: Attach copies of supporting documents such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary. 9. Date-Stamped copy: To receive an acknowledgment of the filing of your claim, enclose a stamped, self-addressed envelope and a copy of this proof of claim.	(This space for court use)	
Date: July 28, 2009  W. B. & ASSOCIATES, counsel for creditor		
Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 & 3571		

EXHIBIT C

Case 09-17391-mkn Claim 3-1 Filed 05/20/09 Page 1 of 26

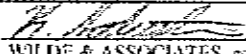
UNITED STATES BANKRUPTCY COURT DISTRICT OF NEVADA		PROOF OF CLAIM 13
Name of Debtor John L. Mendaza	Case Number 09-17391-mkn	<i>(This space for court use)</i>
NOTE: This form should NOT be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. Section 503.		
Name of Creditor (The person or other entity to whom the debtor owes money or property) HISBC Bank USA, NA as Trustee for Nomura Asset Acceptance Corporation, Mortgage Pass-Through Certificates Series 2006-AR1	<input type="checkbox"/> Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars. <input type="checkbox"/> Check box if you have never received any notices from the bankruptcy court in this case. <input type="checkbox"/> Check box if the address differs from the address on the envelope sent to you by the court.	
Name & address where notices and payments should be sent: America's Servicing Company as servicer for One Home Campus, MAC# X2302-045 Des Moines, IA 50328		
Account or other number by which creditor identifies debtor: 1256021980 / 69-73122	Check here if this claim <input type="checkbox"/> replaces <input type="checkbox"/> amends a previously filed claim, dated	
1. BASIS FOR CLAIM <input type="checkbox"/> Goods sold <input type="checkbox"/> Services performed <input checked="" type="checkbox"/> Money loaned <input type="checkbox"/> Personal injury/wrongful death <input type="checkbox"/> Taxes <input type="checkbox"/> Other		
<input type="checkbox"/> Retiree benefits as defined in 11 U.S.C. §1114(a) <input type="checkbox"/> Wages, salaries, and compensation (FILL OUT BELOW) Your Social Security # _____ Unpaid compensation for services performed from: _____ (date) _____ To _____ (date)		
2. Date debt was incurred: September 22, 2005 3. If court judgment, date obtained:		
4. Total amount of claim at time case filed: \$355,999.92 If all or part of your claim is secured or entitled to priority, also complete Item 5 or 6 below. <input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach an itemized statement of all interest or additional charges.		
5. Secured Claim. <input checked="" type="checkbox"/> Check this box if your claim is secured by collateral (including a right of setoff) Brief description of collateral: <input checked="" type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Amount of arrearages and other charges at time case filed included in secured claim, if any: \$46,478.70* * Arrearages, as set forth in Schedule "A" attached. Plus accruing interest, late charges.	6. Unsecured Priority Claim. <input type="checkbox"/> Check this box if you have an unsecured priority claim. Amount entitled to priority \$ _____ Specify the priority of the claim: <input type="checkbox"/> Wages, salaries, or commissions up to \$4,650* earned within 90 days before filing of the bankruptcy petition, or cessation of the debtor's business, whichever is earlier- 11 U.S.C. §507(a)(3) <input type="checkbox"/> Contributions to an employee benefit plan- 11 U.S.C. § 507(a)(4) <input type="checkbox"/> Up to \$2,100* of deposits toward purchase, lease or rental of property or services for personal, family or household use- 11 U.S.C. § 507(a)(6) <input type="checkbox"/> Alimony, maintenance, or support owed to a spouse, former spouse, or child- 11 U.S.C. § 507(a)(7) <input type="checkbox"/> Taxes or penalties owed to governmental units, 11 U.S.C. § 507(a)(8) <input type="checkbox"/> OTHER-Specify applicable paragraph of 11 U.S.C. § 507(a)(____). <small>*Amounts are subject to adjustment on 4/1/98 and every three years thereafter with respect to cases commenced on or after the date of adjustment.</small>	
7. Credits: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim. 8. Supporting documents: Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary. 9. Date-Stamped copy: To receive an acknowledgment of the filing of your claim, enclose a stamped, self-addressed envelope and a copy of this proof of claim.		<i>(This space for court use)</i>
Date: May 20, 2009  WILDE & ASSOCIATES, counsel for creditor		
Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 & 3571		

EXHIBIT D

Estimate No.	Field: WVA079			
Property Address	6952 Crystal Lagoon Court			
City	Las Vegas	County	Clark	State NV Zip Code 89147-6552
Client	John Mendoza			



03/14/2003

6952 Crystal Lagoon Court
 CrystalPonte Plat Book 68 Page 26 Lot 13 Block 1
 Las Vegas, NV 89147-6552

John Mendoza
 6952 Crystal Lagoon Court
 Las Vegas, NV 89147

GP Residential	1
Market area front	4
Subject Photos	5
Photograph Addendum	6
Photograph Addendum	7
Comparable Photos 1-3	8
Plot Map	9
Location Map	10
Building Sketch (Page - 1)	11
Notes	12

Shawn Dwyer

File #: VVA079, Page #1

RESIDENTIAL APPRAISAL SUMMARY REPORT

File #: VVA079

Property Address: 8952 Crystal Lagoon Court		City: Las Vegas		Size: 15.00		Zip Code: 89147-6502	
Legal Description: Crystal Pointe Plat Book 68 Page 26 Lot 16 Block 1		Assessor's Parcel #: 153-17-811-016					
Year: 2008		RE: Taxes: 5,251.03		Special Assessments: 1.0		Easements: n/a	
Current Owner of Record: Mendoza John		Occupant: <input checked="" type="checkbox"/> Owner		<input type="checkbox"/> Tenant		<input type="checkbox"/> Manufactured Housing	
Project Type: <input type="checkbox"/> R/O <input type="checkbox"/> Condominium <input type="checkbox"/> Cooperative <input type="checkbox"/> Other (Specify)		HBA S/W: <input type="checkbox"/> per year <input type="checkbox"/> per month					
Make And Name: Crystal Pointe		Map Reference: 57-03		Case Text: 0053.12			
The purpose of this appraisal is to develop an opinion of <input checked="" type="checkbox"/> Market Value (by definition) or <input type="checkbox"/> Other type of value (describe)							
This report reflects the following value (Max Current, secondarily <input checked="" type="checkbox"/> Current Use Inspection Date is the Effective Date) <input type="checkbox"/> Retrospective <input type="checkbox"/> Prospective							
Approaches developed for this appraisal: <input checked="" type="checkbox"/> Sales Comparison Approach <input type="checkbox"/> Cost Approach <input type="checkbox"/> Income Approach (See Reconciliation Comments and Scope of Work)							
Property Rights Appraised: <input checked="" type="checkbox"/> Fee Simple <input type="checkbox"/> Leased Fee <input type="checkbox"/> Other (describe)							
Intended Use: Market Value for the use in Bankruptcy Court.							
Intended Users: By name or type: John Mendoza, Randal R. Leonard Attorney At Law							
Appraiser: Shawn P. Kirey		Address: 8340 Casa Corona Court, Las Vegas, NV 89131					
Location: <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban <input type="checkbox"/> Rural		Predominant Occupancy: <input type="checkbox"/> One-Unit Housing		Present Land Use: <input type="checkbox"/> 75% <input checked="" type="checkbox"/> Not Used		Change in Land Use: <input type="checkbox"/> Not Used <input type="checkbox"/> In Process	
Building: <input checked="" type="checkbox"/> One 75% <input type="checkbox"/> 25-75% <input type="checkbox"/> Under 25%		1990s: <input type="checkbox"/> 1990s <input type="checkbox"/> 1990s		2000s: <input type="checkbox"/> 2000s <input type="checkbox"/> 2000s		2010s: <input type="checkbox"/> 2010s <input type="checkbox"/> 2010s	
Grounds: <input type="checkbox"/> Rapid <input checked="" type="checkbox"/> Stable <input type="checkbox"/> Slow		1990s: <input type="checkbox"/> 1990s <input type="checkbox"/> 1990s		2000s: <input type="checkbox"/> 2000s <input type="checkbox"/> 2000s		2010s: <input type="checkbox"/> 2010s <input type="checkbox"/> 2010s	
Property value: <input type="checkbox"/> Increasing <input checked="" type="checkbox"/> Stable <input type="checkbox"/> Decreasing		1990s: <input type="checkbox"/> 1990s <input type="checkbox"/> 1990s		2000s: <input type="checkbox"/> 2000s <input type="checkbox"/> 2000s		2010s: <input type="checkbox"/> 2010s <input type="checkbox"/> 2010s	
Demand supply: <input type="checkbox"/> Surplus <input type="checkbox"/> Balance <input checked="" type="checkbox"/> Short Supply		1990s: <input type="checkbox"/> 1990s <input type="checkbox"/> 1990s		2000s: <input type="checkbox"/> 2000s <input type="checkbox"/> 2000s		2010s: <input type="checkbox"/> 2010s <input type="checkbox"/> 2010s	
Market time: <input type="checkbox"/> Under 30 Mts <input checked="" type="checkbox"/> 3-6 Mts <input type="checkbox"/> Over 6 Mts		1990s: <input type="checkbox"/> 1990s <input type="checkbox"/> 1990s		2000s: <input type="checkbox"/> 2000s <input type="checkbox"/> 2000s		2010s: <input type="checkbox"/> 2010s <input type="checkbox"/> 2010s	
Market Area Boundaries, Description, and Market Conditions (including support for the above characteristics and trends): Market Area boundaries are Eastern Avenue on the North, Tropicana Avenue on the South, Eastern Drive on the East and I-215 on the West. Market Area values have been declining due to the high foreclosure activity. Unemployment rate for Las Vegas as of June-08 6.4% which is up 1.6% from last year (U.S. average 5.5%). Job Growth is down 1.7% from last year. Population growth approx. 33% from 1995-2007. Market area values have been declining at approximately 1.3% per month over the last 12 months due to the high foreclosure activity. Currently 61% of comparable sales and 77% of comparable listings were listed as bank owned or short sales. Current contract/pending sales trend suggest a period of decline as future sales begin to close. There are 13 comparable single family homes listed for sale, 3 of which are in contract and 7 are listed as vacant. Marketing time in the market area has a Median of 103 days. Exposure time in the market area has a Median of 159 days.							
On-site: none over see plat map		Site Area: 15 Acres +/-					
Zoning Description: R-5		Description: Single Family Residential (5 Units per Acre)					
(R-1)		Zoning Comments: <input checked="" type="checkbox"/> Legal <input type="checkbox"/> Legal nonconforming (grandfathered) <input type="checkbox"/> Legal <input type="checkbox"/> Nonconforming					
Are CDDs applicable? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Have there been any changes? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					
Highest & Best Use is improved: <input checked="" type="checkbox"/> Present Use or <input type="checkbox"/> Other Use (specify)							
Final Use as of Effective Date: single family residential		Use as appraised in this report: single family residential					
Summary of Highest & Best Use: The Highest and Best Use study is not applicable and was not performed. The subject property is being valued as its current use (Single Family Residential).							
Utilities: Public: <input checked="" type="checkbox"/> Water <input type="checkbox"/> Sewer/Description		01-site improvements: type		Public: <input type="checkbox"/> Water <input type="checkbox"/> Sewer		Topography: flat	
Drainage: <input checked="" type="checkbox"/> typical for area		Drain: asphalt		<input type="checkbox"/> <input type="checkbox"/>		Size: 15 +/- Acres	
Soil: <input checked="" type="checkbox"/> typical for area		Outflow: concrete		<input type="checkbox"/> <input type="checkbox"/>		Drainage: irregular	
Water: <input checked="" type="checkbox"/> typical for area		Sewer: concrete		<input type="checkbox"/> <input type="checkbox"/>		Drainage: typical	
Sanitary Sewer: <input checked="" type="checkbox"/> typical for area		Crest High: memory vapor		<input type="checkbox"/> <input type="checkbox"/>		View: neighborhood	
Storm Sewer: <input checked="" type="checkbox"/> typical for area		Flow: None Noted		<input type="checkbox"/> <input type="checkbox"/>			
Other site features: <input checked="" type="checkbox"/> No site lot <input type="checkbox"/> Corner lot <input type="checkbox"/> At the intersection of <input type="checkbox"/> Undergarment <input type="checkbox"/> Other (describe)							
FEMA Special Flood Hazard Area: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (FEMA Flood Zone: X50)		FEMA Map # 32003C2533E		FEMA Map Date: 5/27/2002			
Site Comments: Typical site improvements for the area.							
General Description		Exterior Description		Foundation		Basement	
# of Units: 2 <input type="checkbox"/> Assoc Unit		Foundation: concrete slab		Bas: concrete		<input checked="" type="checkbox"/> None	
# of Stories: 2		Exterior Walls: frame stucco		Grid Space: n/a		Type: n/a	
Type: <input checked="" type="checkbox"/> Det <input type="checkbox"/> Apt		Roof Surface: concrete tile		Basement: n/a		Type: n/a	
Design (Style): fractional 2 story		Exterior & Overlays: none		Sump Pumps: n/a		Type: n/a	
<input checked="" type="checkbox"/> Existing <input type="checkbox"/> Proposed <input type="checkbox"/> Other Code		Window Type: double pane		Compress: n/a		Type: n/a	
Actual Age (Yrs): 12		Screen Screens: woven mesh		Exterior: none visible		Type: n/a	
Effective Age (Yrs): 4.6				Interior: none visible		Type: n/a	
Interior Description		Appliances		Air: <input type="checkbox"/> None		Heating	
Floor: tile stone-corr./fair-ave		Refrigerator: <input checked="" type="checkbox"/> Stove: <input type="checkbox"/> Freezer: <input type="checkbox"/>		Air: <input type="checkbox"/> None		Type: n/a	
Walls: crystal/average		Range Oven: <input checked="" type="checkbox"/> Dish: <input type="checkbox"/>		Air: <input type="checkbox"/> None		Type: n/a	
Trim/Finish: wood panel/average		Cupboard: <input checked="" type="checkbox"/> Sink: <input type="checkbox"/>		Air: <input type="checkbox"/> None		Type: n/a	
Bath Floor: tile carpet/fair-ave		Bathroom: <input checked="" type="checkbox"/> Down: <input type="checkbox"/>		Air: <input type="checkbox"/> None		Type: n/a	
Bath Wall: tile/average		Tub/Shower: <input checked="" type="checkbox"/> Floor: <input type="checkbox"/>		Air: <input type="checkbox"/> None		Type: n/a	
Ceiling: hudson corr./average		Hvac: <input checked="" type="checkbox"/> Heat: <input type="checkbox"/>		Air: <input type="checkbox"/> None		Type: n/a	
		Water: <input checked="" type="checkbox"/> Heat: <input type="checkbox"/>		Air: <input type="checkbox"/> None		Type: n/a	
		Water: <input checked="" type="checkbox"/> Heat: <input type="checkbox"/>		Air: <input type="checkbox"/> None		Type: n/a	
Finished area above grade contains:		3 Rooms		3 Bath(s)		2,610 Square Feet of Gross Living Area Above Grade	
Additional features: tile flooring, slate flooring in the dining room, tile counters in the kitchen, french doors, water softener, laundry area sink, and a finished garage with an automatic dog opener.							
Describe the condition of the property (including physical, functional and economic condition): The subject has heavy worn carpet and needs touch up paint throughout. The subject has two apparent water leaks. The subject has a converted garage conversion, that converted the three car stall into storage. The improvements are noted to be in fair to average with no physical, functional or external inadequacies noted. The subject's effective age is based on the current condition of the house as of the inspection date. The subject's roof appears to be in average condition, with no visible damage from the street.							

File No. WA079 Page #3

RESIDENTIAL APPRAISAL SUMMARY REPORT

File No. WA079

My research did <input checked="" type="checkbox"/> did not reveal any prior sales or transfers of the subject property for the three years prior to the effective date of this appraisal.		Date Source: M/S Clark County Assessor		
1st Prior Subject Sale/Tender		Analysis of sales history and/or any current statement of sales history: No prior sales or transfers of the subject property within three years of the appraisal. No prior sales or transfers of the comparable properties within one year of the appraisal.		
Date	n/a			
Price				
Source(s)				
2nd Prior Subject Sale/Tender				
Date	n/a			
Price				
Source(s)				
SALES COMPARISON APPROACH TO VALUE (if developed) The Sales Comparison Approach was not developed for this appraisal.				
FEATURE	SUBJECT	COMPARABLE SALE #1	COMPARABLE SALE #2	COMPARABLE SALE #3
Address	2352 Crystal Lagoon Court Las Vegas, NV 89147-6502	65324 W. Kate Avenue Las Vegas, NV 89147-6522	6391 Campana Drive Las Vegas, NV 89147-5221	2456 Gafano Avenue Las Vegas, NV 89117-9129
Locality to Subject		0.24 miles NE	1.23 miles SE	1.44 miles NE
Sale Price		\$ 285,000	\$ 310,000	\$ 290,000
Sale Price/GSA		\$ 117.48/sqft	\$ 113.85/sqft	\$ 113.66/sqft
Date Source(s)	Inspection	M/S 5/23/2009 C/Dom 287	M/S 6/22/02 C/Dom 67	M/S 5/27/09 C/Dom 59
Verifiable Source(s)	M/S Assessor	Doc# 20080206 02233	Doc# 20060703 01451	Doc# 20060509 00932
VALUE ADJUSTMENTS	DESCRIPTION	DESCRIPTION	DESCRIPTION	DESCRIPTION
Sale or Financing	none	none	none	none
Condition	N/A	none	none	none
Date of Sale/Ten	03/01/2009	07/03/2009	06/03/2009	06/03/2009
Profits Appraised	fee simple	fee simple	fee simple	fee simple
Location	average	average	average	average
Size	0.15 Acres +/-	0.15 St. +/-	0.14 St. +/-	0.11 St. +/-
View	neighborhood	neighborhood	neighborhood	neighborhood
Design Style	traditional 2 story	traditional 2 story	traditional 2 story	traditional 2 story
Quality of Construction	average	average	average	average
Age	12	13	15	6
Condition	fair-average	good	good	fair-average
Moisture Grab	total 8 in 3	total 8 in 3	total 8 in 3	total 8 in 3
Room Count	8 3 3	8 5 3	8 5 3.5	7 3 2.5
Gross Living Area	2,610 sqft	2,426 sqft	2,723 sqft	2,547 sqft
Basement & Finishes	n/a	n/a	n/a	n/a
Flowers & Color Grade	n/a	none	none	none
Functional Utility	average	average	average	average
Heating/Cooling	two central	two central	two central	two central
Driveway (Front Back)	standard	standard	standard	standard
Garage/Space	2-carage	3-carage	3-carage	2-carage
Porch/Patio/Deck	open porch/patio	open porch/patio	open porch/patio	open porch/patio
Upgrades	upgraded	similar	similar	similar
Market condition (not date declining)	06/26/2003	06/05/2003	06/05/2003	04/03/2003
Back ground/short sale	owner occupied	owner occupied	bank owned	short sale
Net Adjustment (Total)		+13,600	-23,600	-7,500
Adjusted Sale Price		\$ 271,400	\$ 286,200	\$ 282,500
Summary of Sales Comparison Approach	The comparables used are considered to be in the subject's market area. As by definition, market area is not limited to a one mile but is the area in which alternative, similar properties effectively compete with the subject property in the minds of probable potential purchasers and sellers. The subject and comparables are of similar quality of construction, casing, utility and market appeal of the market area.			
No personal property was attributed to the final estimated market value of the appraised property.				
Comparable #1 warranted an adjustment for its superior condition and for its inferior date. No other adjustments were warranted.				
Comparable #2 warranted an adjustment for its superior condition and a dating market adjustment based on its contract date. No other adjustments were warranted.				
Comparable #3 warranted a dating market adjustment based on its contract date. No other adjustments were warranted.				
All comparables were given consideration in the final reconciliation of the Sales Comparison Approach.				
Adjustments are extracted from the market and are rounded. * When no adjustments made for differences between the subject and the comparables it is represented by a 0. That indicates that no clearly specific dollar amount was demonstrated in the current market.				
Adjustments that could not be quantified with a dollar amount are not ignored but given consideration in the final reconciliation of the estimated market value for the subject property.				
The greatest influence on sale prices is the current market is the condition of the property and the allowable marking time by the owner. Some adjustments could not be extracted from the market, as there was no apparent willingness of the typical buyer to pay more for some minor differences in the current market.				
Indicated Value by Sales Comparison Approach \$ 280,000				



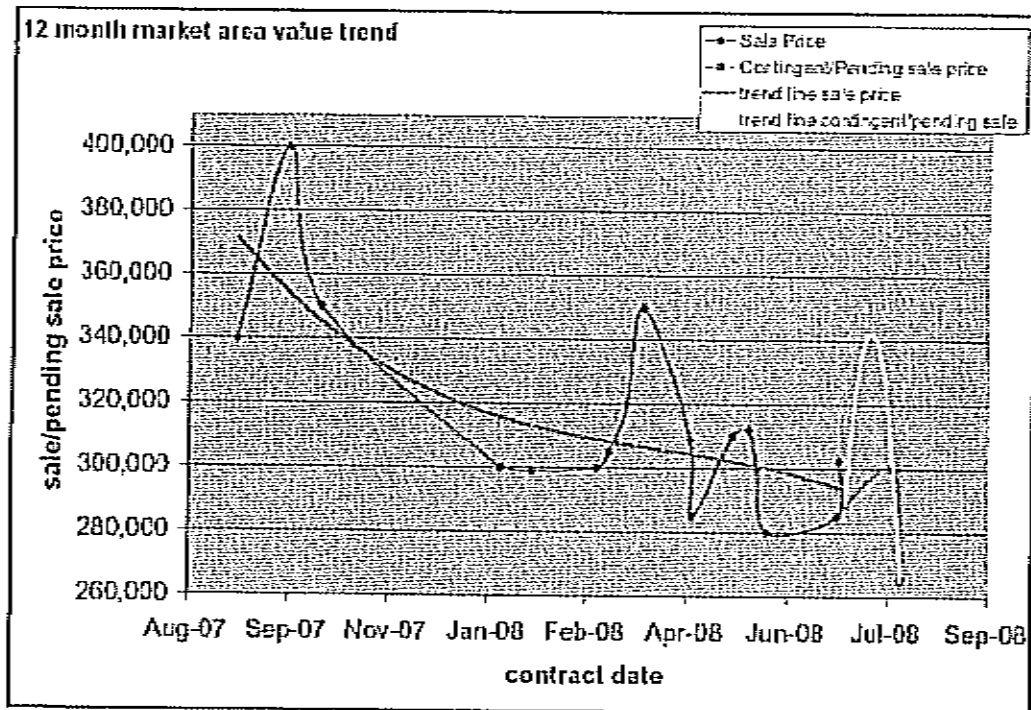
File: WAG79

GP RESIDENTIAL

File No. VM072 Page #5

12 Month Market Area Value Trend(Comparable Properties)

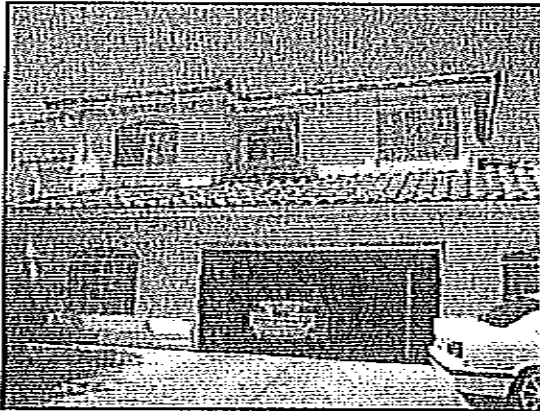
Source/Client	n/a				
Property Address	8952 Crystal Lagoon Court				
City	Las Vegas	County	Clark	State	NV
Zip Code	89147-6502				
Client	John Mendoza				



File No. 09147-0502 Page #1

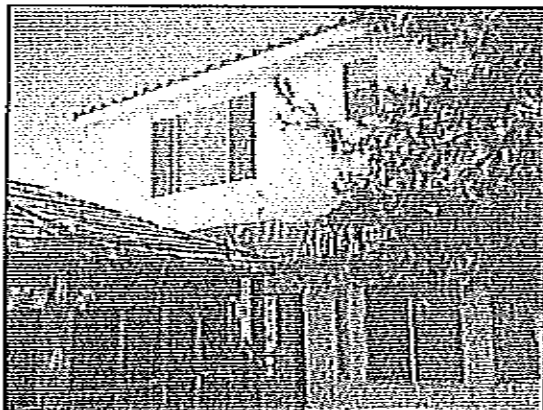
Subject Photo Page

Buyer's Name	N/A				
Property Address	8952 Crystal Lagoon Court				
City	Las Vegas	County	Clark	State	NV
Dist	John Mendez				In Case 89147-0502

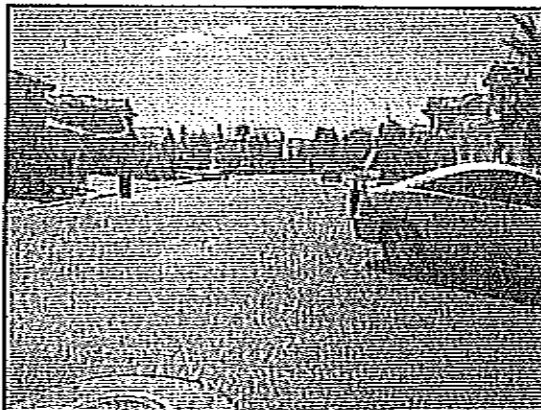


Subject Front

8952 Crystal Lagoon Court
 Sales Price
 Gross Living Area 2,510
 Total Floors 8
 Total Bedrooms 3
 Total Bathrooms 3
 Location average
 View neighborhood
 Site .15 Acres +/-
 Quality average
 Age 12



Subject Rear

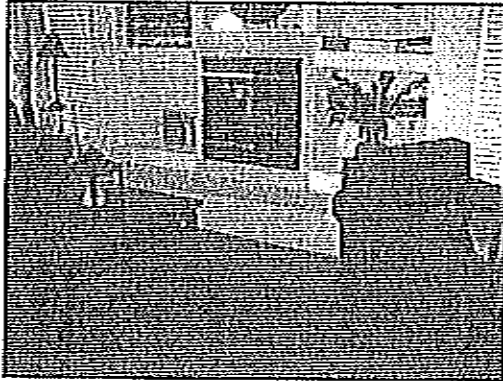


Subject Street

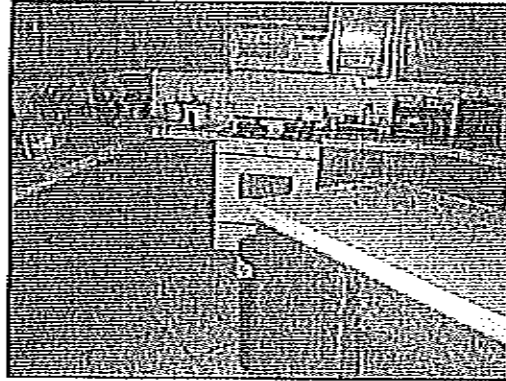
Page 20 of 26

Photograph Addendum

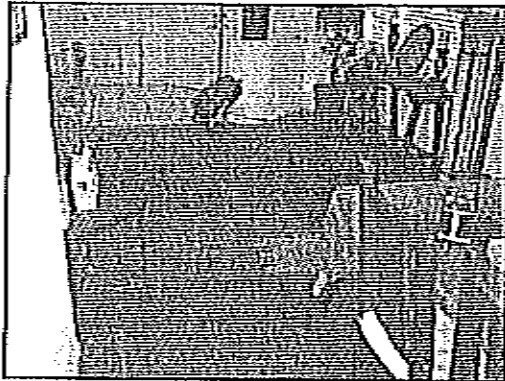
Property Name	6352 Crystal Lagoon Court			
City	Las Vegas	County	Clark	Zip Code
Client	John Mendoza	Size	117	6502



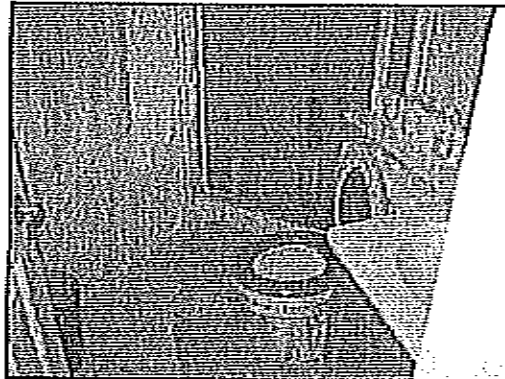
laminate wood flooring
family room



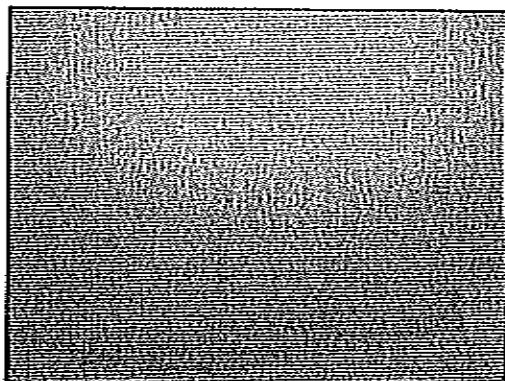
kitchen



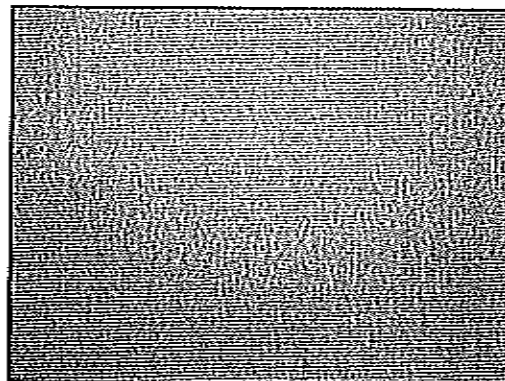
dining room
slate flooring



bathroom



water leak #1

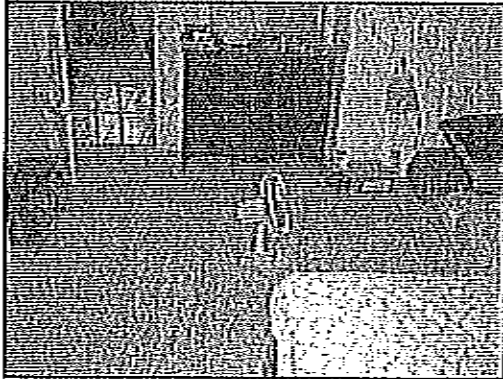


water leak #2

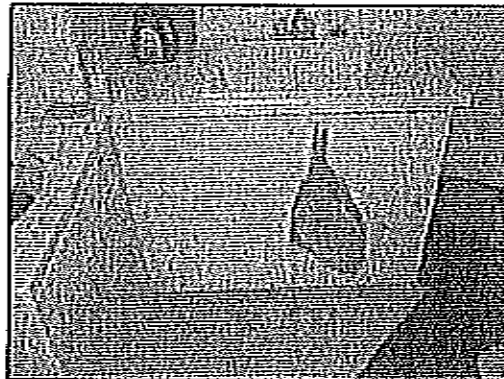
File No. WAFR Page #7

Photograph Addendum

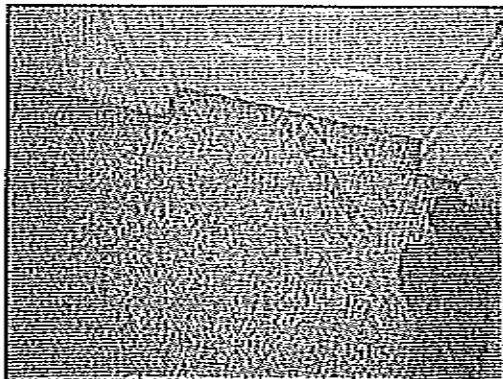
Contract No.	na			
Property Address	6552 Crystal Lagoon Court			
City	Las Vegas	County	Clark	State NV Zip Code 89147-6502
Client	John Mancera			



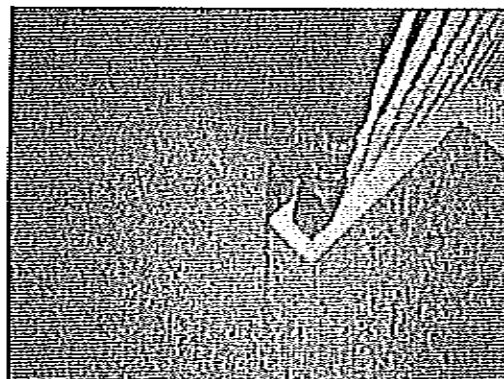
bedroom



laundry area sink



worn carpet



worn carpet



bathroom

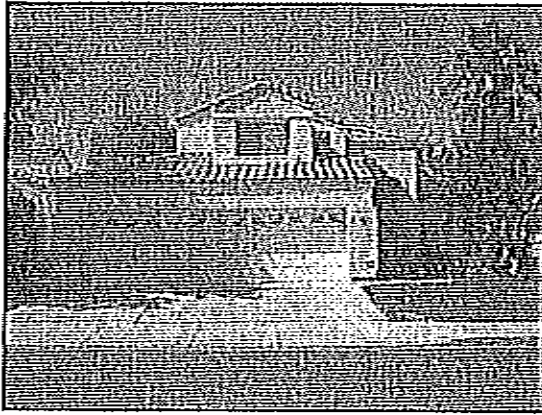


none permitted conversion

File No. VV4005, Page #2

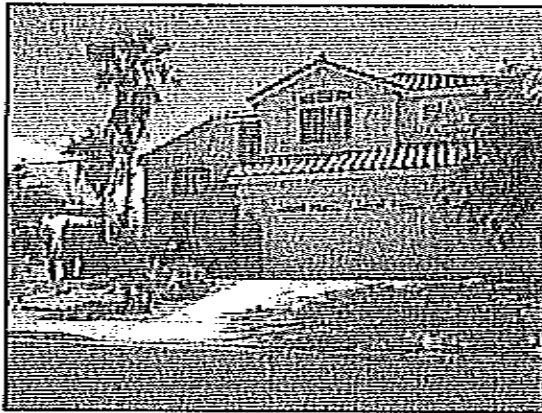
Comparable Photos #1-3

Barbara Clark	na			
Property Address	8552 Crystal Lagoon Court			
City	Las Vegas	County Clark	State NV	Zip Code 89147-4902
Agent	John Mendoza			



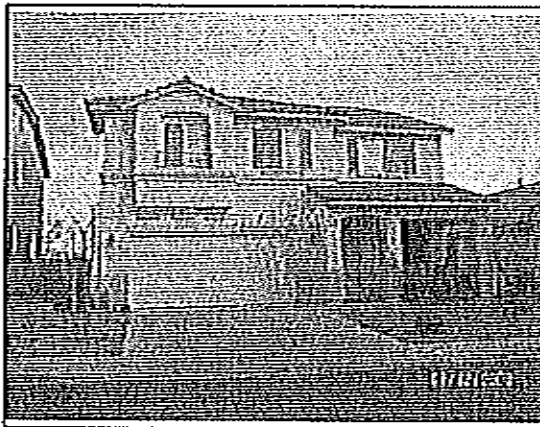
Comparable 1

83374 W. Kabe Avenue
 Price to Subject 0.24 miles NE
 Sales Price 285,000
 Gross Living Area 2,426
 Total Rooms 8
 Total Bedrooms 5
 Total Bathrooms 3
 Location average
 View neighborhood
 Site 0.15 Sft +/-
 Quality average
 Age 13



Comparable 2

83391 Campana Drive
 Price to Subject 1.25 miles SE
 Sales Price 310,000
 Gross Living Area 2,723
 Total Rooms 8
 Total Bedrooms 5
 Total Bathrooms 3.5
 Location average
 View neighborhood
 Site 0.14 Sft +/-
 Quality average
 Age 15



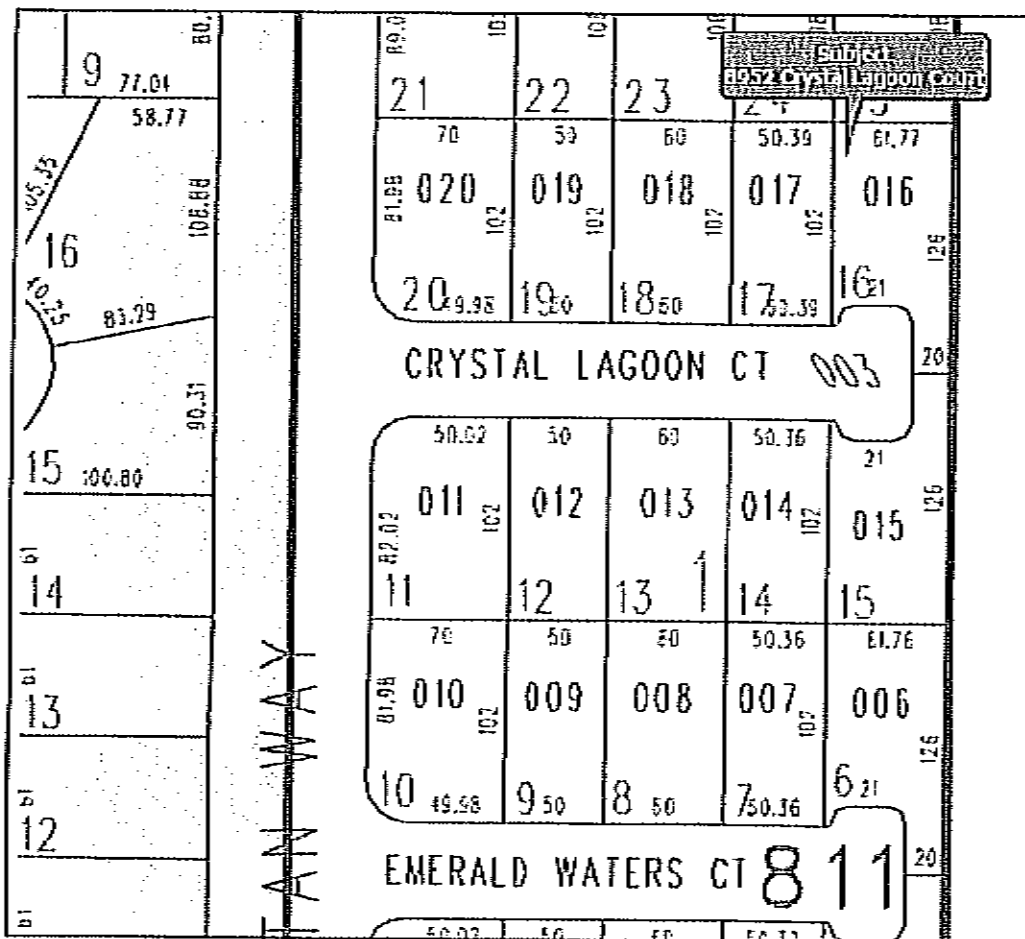
Comparable 3

8455 Galiano Avenue
 Price to Subject 1.44 miles NE
 Sales Price 290,000
 Gross Living Area 2,517
 Total Rooms 7
 Total Bedrooms 3
 Total Bathrooms 2.5
 Location average
 View neighborhood
 Site 0.11 Sft +/-
 Quality average
 Age 6

File No. V-60712 Page #9

Plat Map

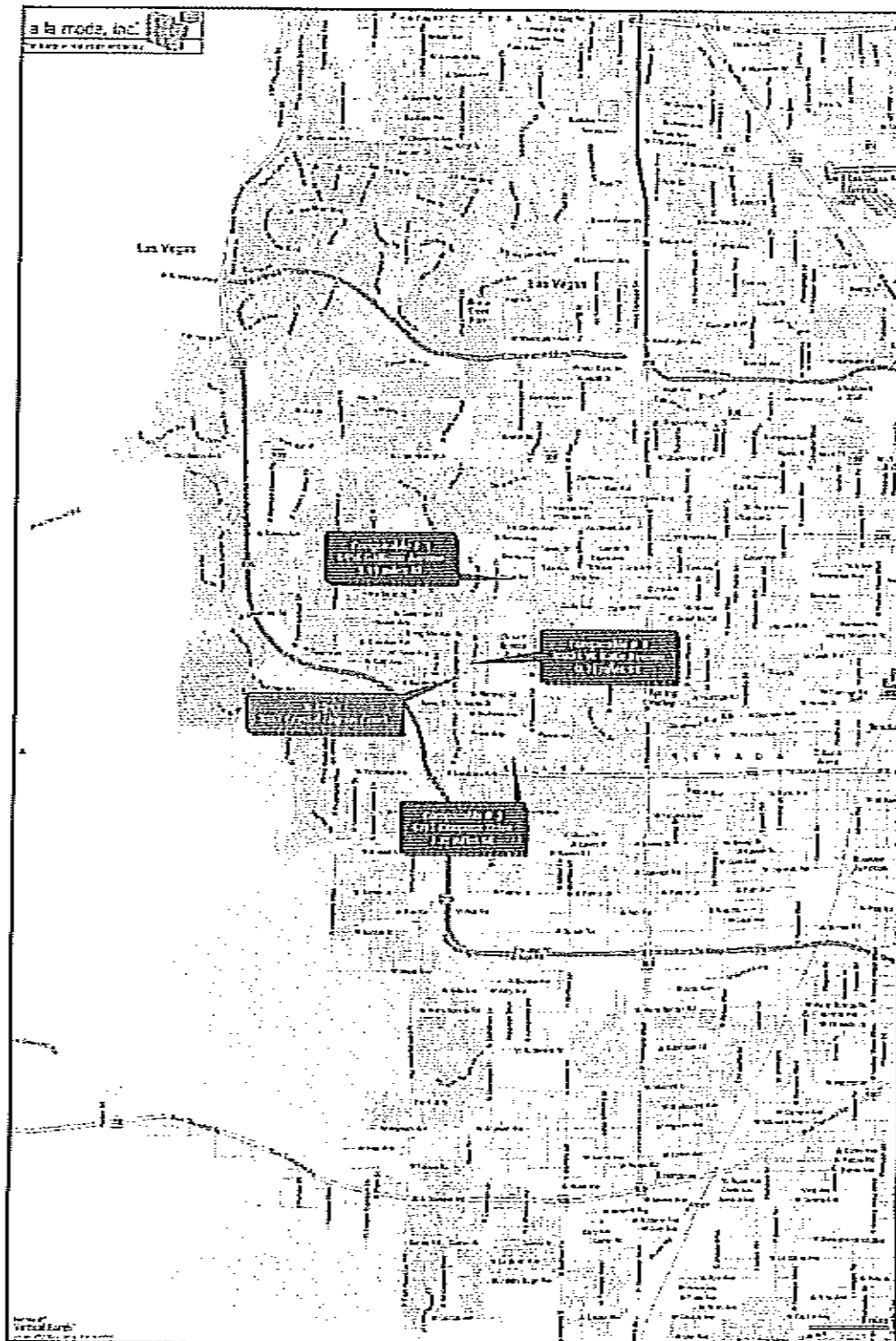
Entered Plat	n/a				
Property Address	5952 Crystal Lagoon Court				
City	Las Vegas	County	Clark	State	NV
Zip Code	89147-6572				
List	John Mendoza				



Field WATS Page #80

Location Map

Barter/Clark	n/a			
Property Address	6962 Crystal Lagoon Court			
City	Las Vegas	County	Clark	State NV
Client	John Mancoske	Zip Code	89147-6592	

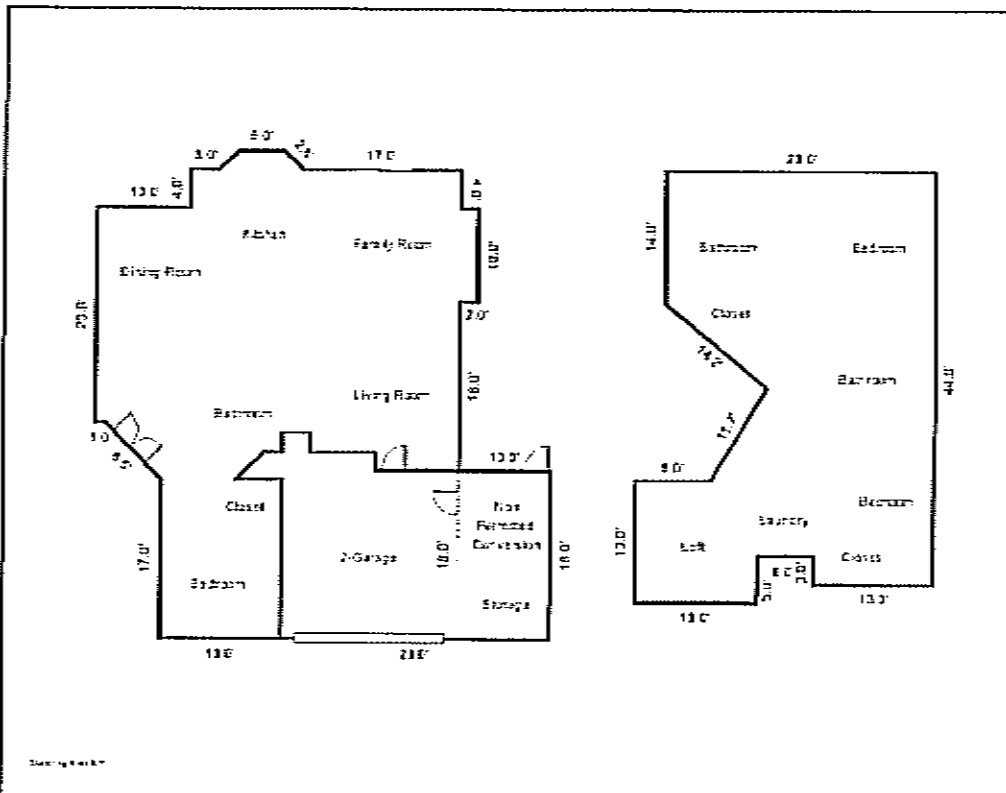


File No. V44774 Page #113

Building Sketch

Exterior Wall	n/a				
Property Address	8952 Crystal Lagoon Court				
City	Las Vegas	County	Clark	State	NV
Zip Code	89147-6502				
Client	John Mancera				

All dimensions were supplied by the Clark County Assessor and were deemed reliable.



Comments:

AREA CALCULATIONS SUMMARY			
Code	Description	Net Size	Net Totals
GLA1	First Floor	1422.5	1422.5
GLA2	Second Floor	1157.5	1157.5
GAR	Garage	378.5	378.5
STG	Storage	150.0	150.0
Net Livable Area (Rounded)			2610

LIVING AREA BREAKDOWN			
Breakdown			Subtotal
First Floor			
4.0 x	3.0		12.0
2.0 x	5.0		10.0
0.5 x	2.0		2.0
0.5 x	2.0		2.0
1.0 x	1.0		1.0
4.0 x	17.0		68.0
13.0 x	17.0		221.0
14.0 x	13.0		182.0
2.5 x	6.0		15.0
4.0 x	8.0		32.0
3.0 x	13.0		39.0
0.5 x	3.0		1.5
14.0 x	28.0		392.0
8.0 x	24.0		192.0
3.0 x	3.0		9.0
2.0 x	5.0		10.0
2.0 x	10.0		20.0
Second Floor			
14.0 x	23.0		322.0
4.0 x	13.0		52.0
3.0 x	13.0		39.0
1.0 x	19.0		19.0
18.0 x	19.0		342.0
0.5 x	7.0		3.5
0.5 x	5.0		2.5
0.5 x	5.0		2.5
0.5 x	5.0		2.5
2 Items Not Listed			121.5
28 Items (Rounded)			2510

Sharon Errey

File No. VVA079 Page #12

FROM: Vegas Valley Appraisers Accounts Receivable 8340 Casa Colina Court Las Vegas, NV 89131 Telephone Number: 702-951-7573 Fax Number: 702-915-4556		INVOICE <table border="1"> <tr><td>INVOICE NUMBER</td></tr> <tr><td>VVA079</td></tr> <tr><td>DATE</td></tr> <tr><td>03/14/2008</td></tr> <tr><td>REFERENCE</td></tr> <tr><td>Internal Order #:</td></tr> <tr><td>Vendor Case #:</td></tr> <tr><td>Client File #:</td></tr> <tr><td>Main File # on form:</td></tr> <tr><td>Other File # on form:</td></tr> <tr><td>Federal Tax ID:</td></tr> <tr><td>Employer ID:</td></tr> </table>		INVOICE NUMBER	VVA079	DATE	03/14/2008	REFERENCE	Internal Order #:	Vendor Case #:	Client File #:	Main File # on form:	Other File # on form:	Federal Tax ID:	Employer ID:
INVOICE NUMBER															
VVA079															
DATE															
03/14/2008															
REFERENCE															
Internal Order #:															
Vendor Case #:															
Client File #:															
Main File # on form:															
Other File # on form:															
Federal Tax ID:															
Employer ID:															
TO: John Mendoza John Mendoza 8952 Crystal Lagoon Court Las Vegas, NV 89147 Telephone Number: Fax Number: Alternate Number: E-Mail: amendoza157jm@aol.com		Internal Order #: VVA079 Vendor Case #: Client File #: Main File # on form: VVA079 Other File # on form: Federal Tax ID: 20-0773752 Employer ID:													
DESCRIPTION: Lender: John Mendoza Clerk: John Mendoza Purchaser/Borrower: n/a Property Address: 8952 Crystal Lagoon Court City: Las Vegas County: Clark State: NV Zip: 89147-6552 Legal Description: Crystal Pointe Plat Book 68 Page 26 Lot 16 Block 1															
FEES		AMOUNT													
GP form		250.00													
SUBTOTAL		250.00													
PAYMENTS		AMOUNT													
Check #:	Date: 03/14/2008	Description: Paid in Full	250.00												
Check #:	Date:	Description:													
Check #:	Date:	Description:													
SUBTOTAL		250.00													
TOTAL DUE		\$ 0													

FROM: John Mendoza John Mendoza 8952 Crystal Lagoon Court Las Vegas, NV 89147 Telephone Number: Fax Number: Alternate Number: E-Mail: amendoza157jm@aol.com		Amount Due: \$ _____ Amount Enclosed: \$ _____ <table border="1"> <tr><td>INVOICE NUMBER</td></tr> <tr><td>VVA079</td></tr> <tr><td>DATE</td></tr> <tr><td>03/14/2008</td></tr> <tr><td>REFERENCE</td></tr> <tr><td>Internal Order #:</td></tr> <tr><td>Vendor Case #:</td></tr> <tr><td>Client File #:</td></tr> <tr><td>Main File # on form:</td></tr> <tr><td>Other File # on form:</td></tr> <tr><td>Federal Tax ID:</td></tr> <tr><td>Employer ID:</td></tr> </table>		INVOICE NUMBER	VVA079	DATE	03/14/2008	REFERENCE	Internal Order #:	Vendor Case #:	Client File #:	Main File # on form:	Other File # on form:	Federal Tax ID:	Employer ID:
INVOICE NUMBER															
VVA079															
DATE															
03/14/2008															
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Internal Order #:															
Vendor Case #:															
Client File #:															
Main File # on form:															
Other File # on form:															
Federal Tax ID:															
Employer ID:															
TO: Vegas Valley Appraisers Accounts Receivable 8340 Casa Colina Court Las Vegas, NV 89131		Internal Order #: VVA079 Vendor Case #: Client File #: Main File # on form: VVA079 Other File # on form: Federal Tax ID: 20-0773752 Employer ID:													